

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA)
vs. Plaintiff,) CIVIL NO.: 7:20-CV-171
vs.)
4.9693 ACRES OF LAND, MORE OR LESS,)
SITUATE IN STARR COUNTY, STATE OF)
TEXAS, AND SERVANDO LUERA, ET AL.)
Defendants.)

COMPLAINT IN CONDEMNATION

1. This is a civil action brought by the United States of America at the request of the Secretary of the Department of Homeland Security, through [the Acquisition Program Manager, Wall Program Management Office, U.S. Border Patrol Program Management Office Directorate, U.S. Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security], for the taking of property under the power of eminent domain through a Declaration of Taking, and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1338.

3. The interest in property taken herein is under and in accordance with the authority set forth in Schedule “A.”

4. The public purpose for which said interest in property is taken is set forth in Schedule “B.”

5. The legal description and map or plat of land in which certain interests are being acquired by the filing of this Complaint, pursuant to the Declaration of Taking, are set forth in

Schedules "C" and "D."

6. The interest being acquired in the property described in Schedules "C" and "D" is set forth in Schedule "E."

7. The amount of just compensation estimated for the property interest being acquired is set forth in Schedule "F."

8. The names and addresses of known parties having or claiming an interest in said acquired property are set forth in Schedule "G."

9. Local and state taxing authorities may have or claim an interest in the property by reason of taxes and assessments due and eligible.

WHEREFORE, Plaintiff requests judgment that the interest described in Schedule "E" of the property described in Schedules "C" and "D" be condemned, and that just compensation for the taking of said interest be ascertained and awarded, and for such other relief as may be lawful and proper.

Respectfully submitted,

RYAN K. PATRICK
United States Attorney
Southern District of Texas

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SCHEDULE A

SCHEDULE A

AUTHORITY FOR THE TAKING

The property is taken under and in accordance with 40 U.S.C. §§ 3113 and 3114, which authorize the condemnation of land and the filing of a Declaration of Taking; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, 110 Stat. 3009-546, 3009-554-55, as amended and codified at 8 U.S.C. § 1103(b) & note; and the Act of Congress approved March 23, 2018, as Public Law 115-141, div. F, tit. II, 132 Stat. 348, which appropriated the funds that shall be used for the taking.

SCHEDULE B

SCHEDULE B

PUBLIC PURPOSE

The public purpose for which said property is taken is to construct, install, operate, and maintain a border security tower, roads, fencing, vehicle barriers, security lighting, cameras, sensors, and related structures designed to help secure the United States/Mexico border within the State of Texas.

SCHEDULE C

SCHEDULE C

LEGAL DESCRIPTION

Starr County, Texas

Tract: RGV-RGC-T1105E-1

Owner: Servando Luera, et al

Acres: 4.051

BEING a tract of land situated in the Juan De Dios Garcia Survey, Abstract Number 326, Porcion 59, Starr County, Texas, being part of a called 197.20 acre tract of land less called 5.05 acres and less called 0.85 acres leaving 191.30 net acres (191.30 acre tract) of land described in Deed of Gift to Servando Luera, as recorded in Volume 771, Page 781 of the Official Records of Starr County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at a found I-inch iron pipe for an interior comer of said 191.30 acre tract and for a corner of a called 95.00 acre tract described in a Gift Deed to Servando Luera as recorded in Volume 771, Page 784 of the Official Records of Starr County, Texas, from which a found 1/2-inch iron rod for the most Northerly comer of said 191.30 acre tract and in the Southeast line of said 95.00 acre tract bears, North 54° 25' 26" East, a distance of 971.20 feet;

THENCE, over and across said 191.30 acre tract, South 35° 25' 17" East, a distance of 587.56 feet, to a set 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" for the POINT OF BEGINNING of the herein described tract, having coordinates of: Northing: 16,721,613.57, Easting: 774,661.26;

THENCE, over and across said 191.30 acre tract, South 32° 37' 32" East, a distance of 20.00 feet, to a set 5/8-inch iron rod with a 2-inch aluminum cap stamped RVG-RVC-T1105E-CORNER#1 for corner of the herein described tract;

THENCE, continuing over and across said 191.30 acre tract, South 57° 22' 28" West, a distance of 200.00 feet, for an exterior corner of the herein described tract;

THENCE, over and across said 191.30 acre, South 32° 37' 32" East, a distance of 40.00 feet;

THENCE, continuing over and across said 191.30 acre tract, South 57° 22' 28" West, a distance of 2559.88 feet to a set 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" being an angle point of the herein described tract;

SCHEDULE C - CONTINUED

LEGAL DESCRIPTION

THENCE, continuing over and across said 191.30 acre tract, South $74^{\circ} 32' 45''$ West, a distance of 45.57 feet to a set 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" being an angle point of the herein described tract;

THENCE, continuing over and across said 191.30 acre tract, North $65^{\circ} 02' 22''$ West, a distance of 208.91 feet to a set 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" being an angle point of the herein described tract;

THENCE, continuing over and across said 191.30 acre tract, North $46^{\circ} 45' 04''$ West, a distance of 159.84 feet to a set 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" on a northwesterly line of said 191.30 acre tract;

THENCE, along said N01ihwesterly line of said 191.30 acre tract, N01ih $51^{\circ} 44' 03''$ East, a distance of 37.09 feet to a set 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" being a westerly corner of said 191.30 acre tract and the Southerly of Chapeno Road, as occupied;

THENCE, along the common line of said 191.30 acre tract and said Chapeno Road, South $46^{\circ} 45' 04''$ East, a distance of 139.59 feet, to a set 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" in said common line and angle point of the herein described tract;

THENCE, continuing along said common line, N $55^{\circ} 38' 33''$ East, a distance of 23.87 feet, to a set 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" to a point in said line and for an angle point of the herein described tract;

THENCE, over and across said 191.30 acre, South $65^{\circ} 02' 22''$ East, a distance of 177.17 feet, to a set 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" for an interior corner of the herein described tract;

THENCE, over and across said 191.30 acre, N01ih $74^{\circ} 32' 45''$ East, a distance of 14.43 feet, to a set 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" for an interior corner of the herein described tract;

THENCE, continuing over and across said 191.30 acre tract, North $57^{\circ} 22' 28''$ East, a distance of 2750.82 to the POINT OF BEGINNING containing 4.051 acres (176,462 square feet).

SCHEDULE C - CONTINUED

LEGAL DESCRIPTION

Tract: RGV-RGC-T1105E-2

Owner: Servando Luera, et al

Acre: 0.9183

BEING a tract of land situated in the Juan De Dias Garcia Survey, Abstract Number 326, Porcion 59, Starr County, Texas, being part of a called 197.20 acre tract of land less called 5.05 acres and less called 0.85 acres leaving 191.30 net acres (191.30 acre tract) of land described in Deed of Gift to Servando Luera, as recorded in Volume 771, Page 781 of the Official Records of Starr County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at a found 1-inch iron pipe for an interior corner of said 191.30 acre tract and for a corner of a called 95.00 acre tract described in a Gift Deed to Servando Luera as recorded in Volume 771, Page 784 of the Official Records of Starr County, Texas, from which a found 1/2-inch iron rod for the most Northerly corner of said 191.30 acre tract and in the Southeast line of said 95.00 acre tract bears, North 54° 25' 26" East, a distance of 971.20 feet;

THENCE, over and across said 191.30 acre tract, South 35° 25' 36" East, a distance of 587.56 feet, to a set 1/2-inch iron rod with plastic cap stamped "HALFF ESMT";

THENCE, continuing over and across said 191.30 acre tract, South 32° 37' 32" East, a distance of 20.0 feet, to a set 5/8-inch iron rod with a 2-inch aluminum cap stamped RVG-RVC-T1105E-CORNER#1 for the POINT OF BEGINNING of the herein described tract, having coordinates of: Northing: 16,721,596.73, Easting: 774,672.05;

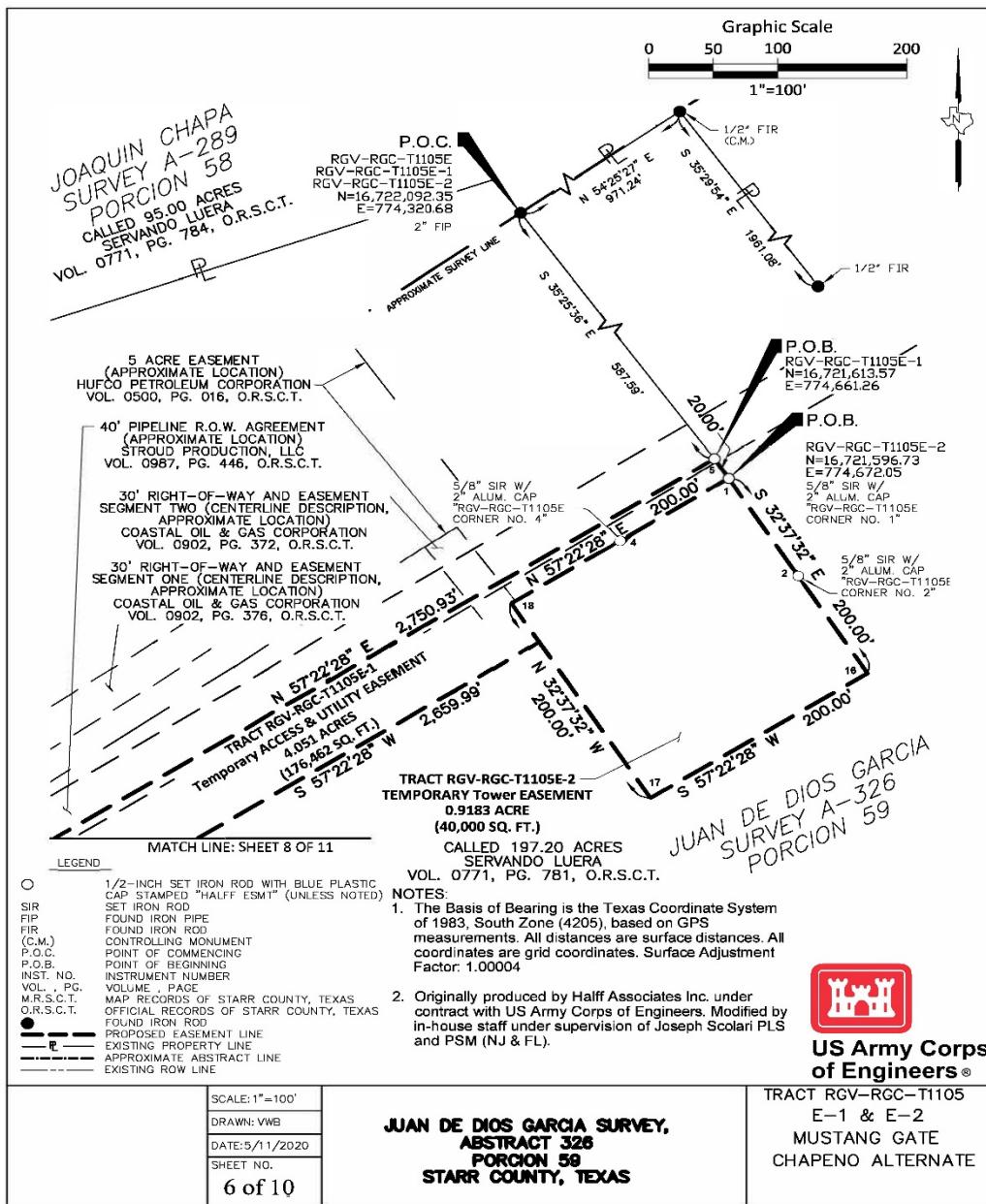
THENCE, continuing over and across said 191.30 acre tract, South 32° 37' 32" East, a distance of 200.00 feet, to the East corner of the herein described tract;

THENCE, continuing over and across said 191.30 acre tract, South 57° 22' 28" West, a distance of 200.00 feet, to the South corner of the herein described tract;

THENCE, continuing over and across said 191.30 acre tract, North 32° 37' 32" West, a distance of 200.00 feet, to the West corner of the herein described tract;

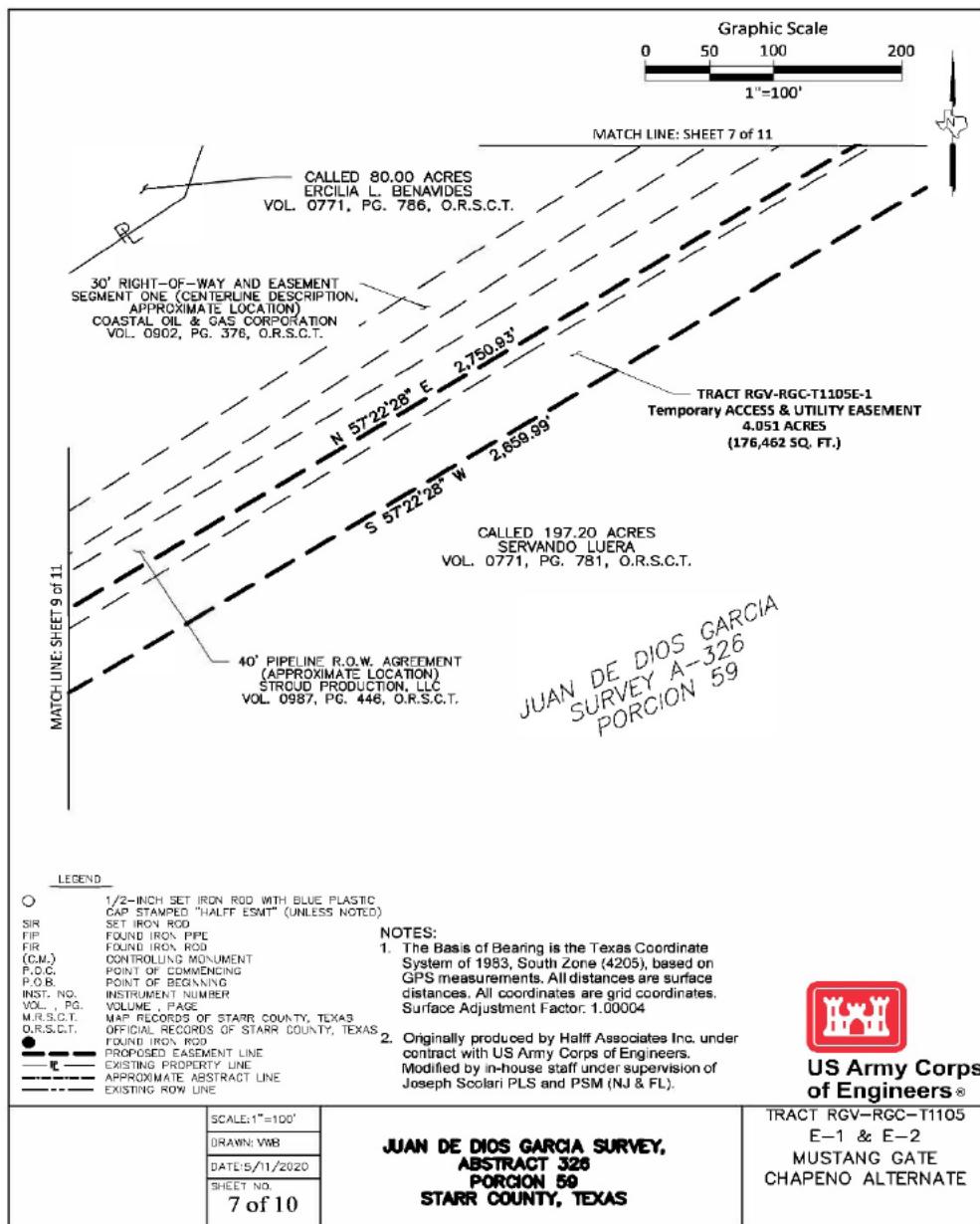
THENCE, continuing over and across said 191.30 acre tract, N 57° 22' 28" East, a distance of 200.00 feet, to the POINT OF BEGINNING containing 0.9183 of an acre (40,000 square feet);

SCHEDULE D

SCHEDULE D**MAP or PLAT****LAND TO BE CONDEMNED**

Tracts: RGV-RGC-T1105E-1
RGV-RGC-T1105E-2

Owner: Servando Luera, et al
Acreage: 4.9693

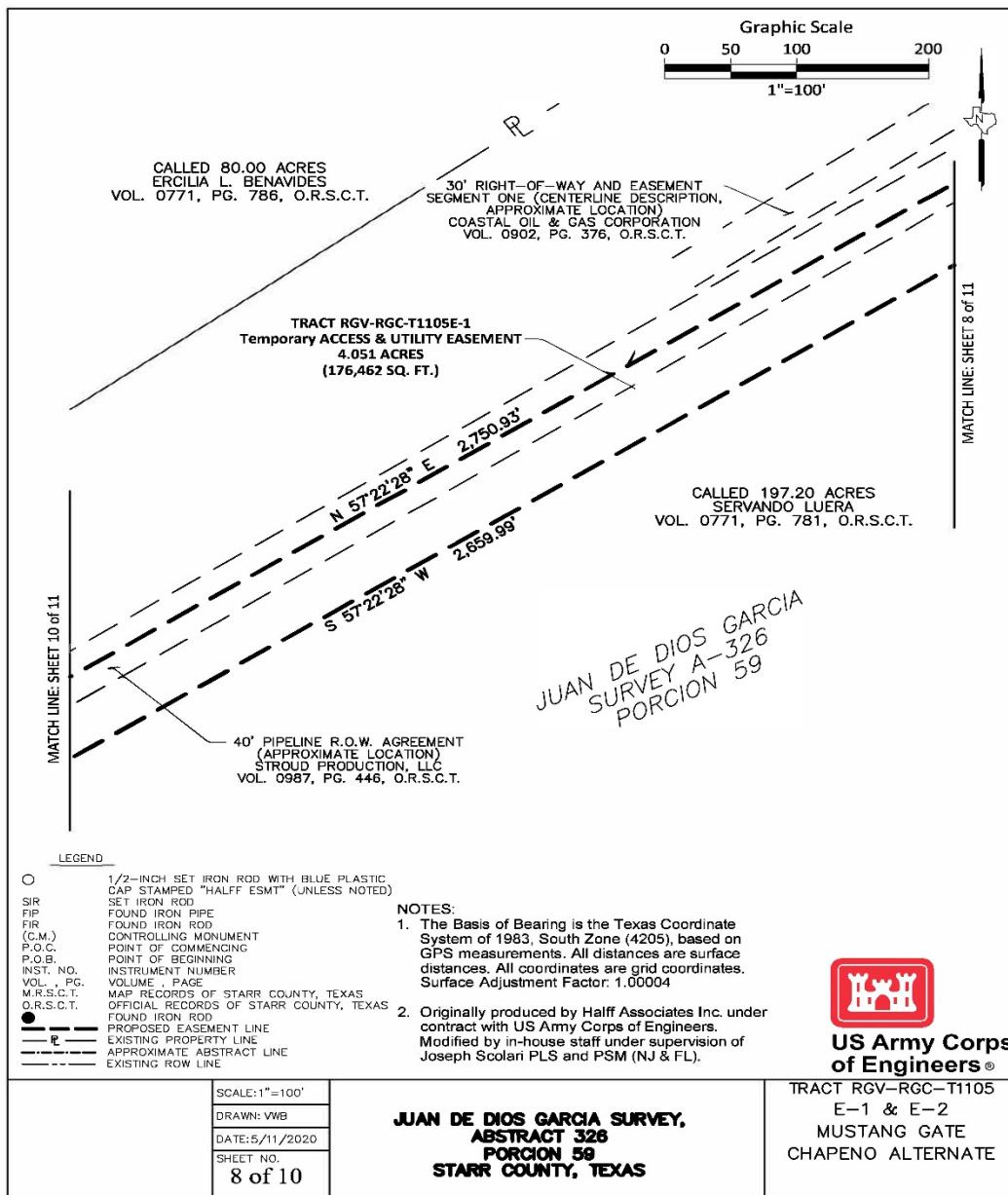
SCHEDULE D - CONTINUED**MAP or PLAT****LAND TO BE CONDEMNED**

Tracts: RGV-RGC-T1105E-1

RGV-RGC-T1105E-2

Owner: Servando Luera, et al

Acreage: 4.9693

SCHEDULE D - CONTINUED**MAP or PLAT****LAND TO BE CONDEMNED**

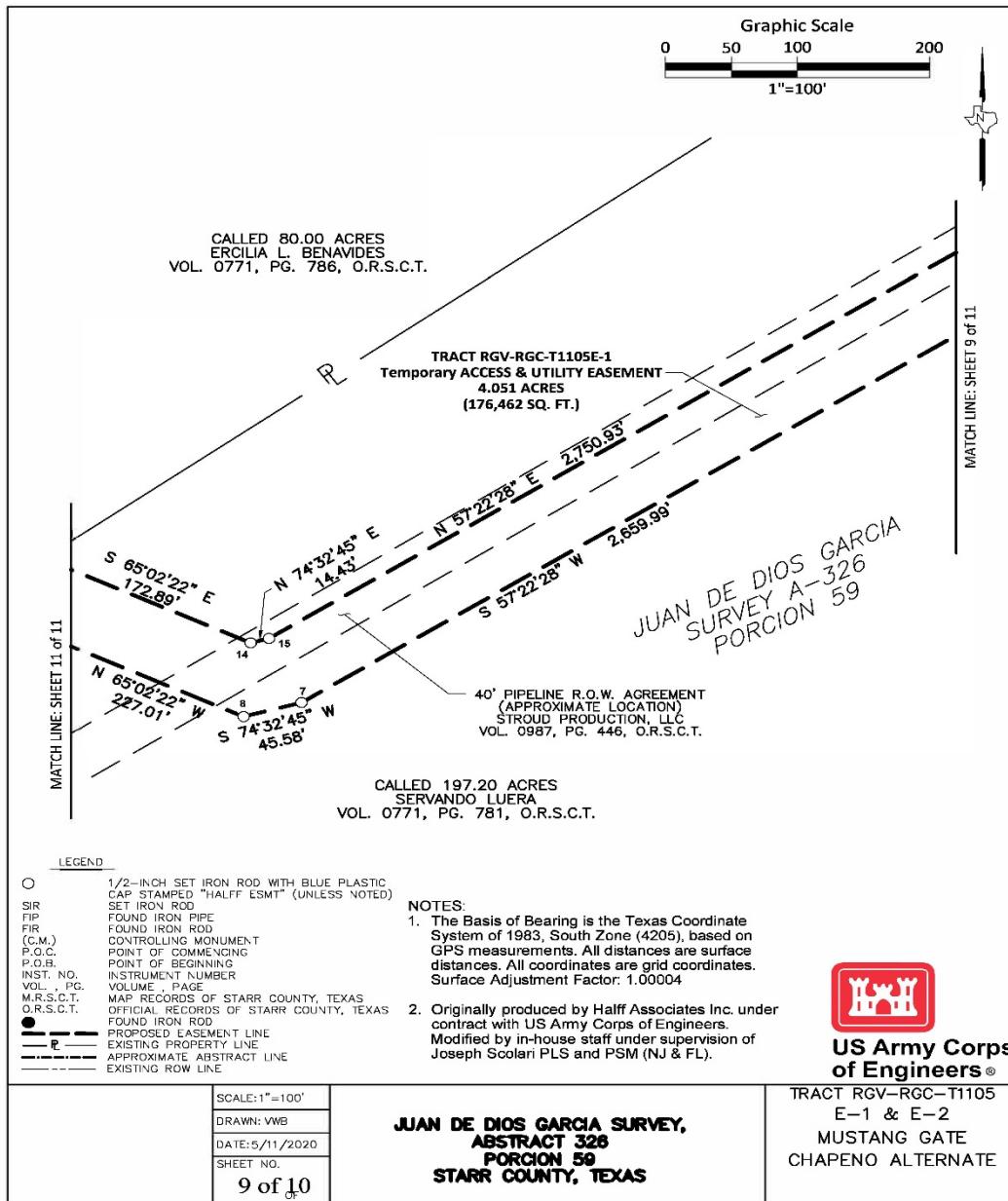
**US Army Corps
of Engineers®**

Tracts: RGV-RGC-T1105E-1

RGV-RGC-T1105E-2

Owner: Servando Luera, et al

Acreage: 4.9693

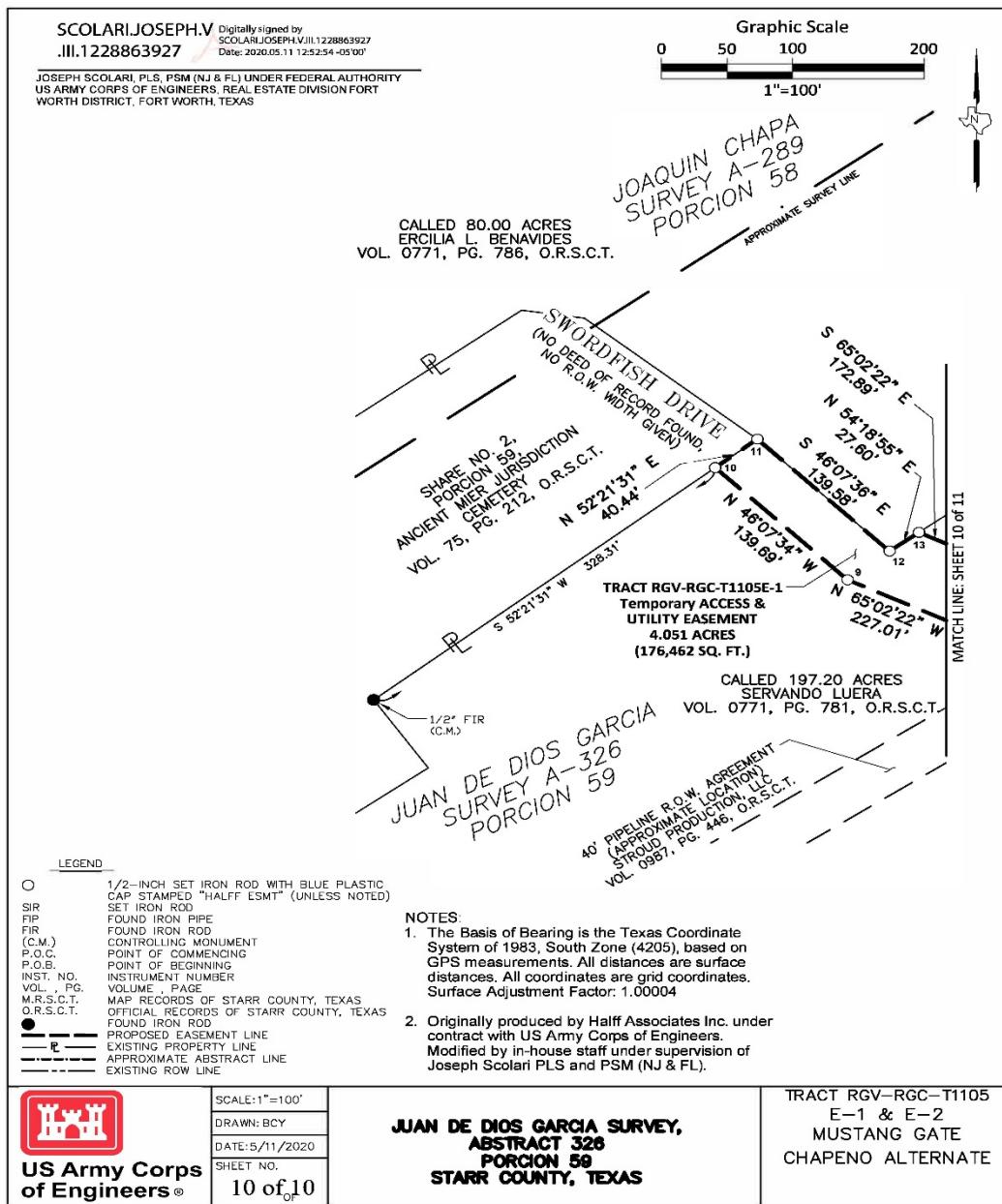
SCHEDULE D - CONTINUED**MAP or PLAT****LAND TO BE CONDEMNED**

Tracts: RGV-RGC-T1105E-1
RGV-RGC-T1105E-2

Owner: Servando Luera, et al
Acreage: 4.9693



US Army Corps
of Engineers®

SCHEDULE D - CONTINUED**MAP or PLAT****LAND TO BE CONDEMNED**

Tracts: RGV-RGC-T1105E-1
RGV-RGC-T1105E-2

Owner: Servando Luera, et al
Acreage: 4.9693

SCHEDULE E

SCHEDULE E

ESTATE TAKEN

Starr County, Texas

Tract: RGV-RGC-T1105E-1

Owner: Servando Luera, et al

Acres: 4.051

Road and Utility Easement

A non-exclusive, temporary, and assignable easement and right-of-way in, on, over, under and across the land described in Schedule C, for a period not to exceed four years, beginning with date of possession of the land is granted to the United States, for use by the United States, its representatives, agents and contractors for the location, construction, operation, maintenance, alteration and replacement of a road and aboveground and underground utility lines and appurtenances thereto; together with the right to trim, cut, fell and remove any vegetative or structural obstacles that interfere within the right-of-way; subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving however, to the owners, their heirs and assigns, the right to use the surface of such land as access to their adjoining land or for any other use consistent with its use as a road.

SCHEDULE E - CONTINUED

ESTATE TAKEN

Tract: RGV-RGC-T1105E-2

Owner: Servando Luera, et al

Acre: 0.9183

Tower Site Easement

An exclusive, temporary, and assignable easement and right-of-way, in, on, over and across the land described in Schedule C, for a period not to exceed four years, beginning with date of possession of the land is granted to the United States, for use by the United States, its representatives, agents and contractors for the location, construction, operation, maintenance, alteration, repair, and patrol of re-locatable tower(s) and associated facilities; together with the right to trim, cut, fell and remove any vegetative or structural obstacles that interfere within the easement corridor; subject to existing easements for public roads and highways, public utilities, railroads and pipelines.

SCHEDULE F

SCHEDULE F

ESTIMATE OF JUST COMPENSATION

The sum estimated as just compensation for the lands being taken is THREE THOUSAND DOLLARS AND NO/100 (\$3,000.00), to be deposited herewith in the Registry of the Court for the use and benefit of the persons entitled thereto.

SCHEDULE G

SCHEDULE G**INTERESTED PARTIES**

The following table identifies all persons who have or claim an interest in the property condemned and whose names are now known, indicating the nature of each person's property interest(s) as indicated by references in the public records and any other information available to the United States. See Fed. R. Civ. P. 71.1(c).

Interested Party	Reference
Servando Luera [REDACTED] Falcon Heights, Texas [REDACTED]	Gift Deed, Document #1997-189307; Recorded January 22, 1997, Vol. 771, pg. 781, Official Records of Starr County And Gift Deed, Document #1997-190070, Recorded March 10, 1997, Vol. 778, pg. 300, Official Records of Starr County
Unknown Heirs of Quirino Villareal	Decree of Partition, Recorded February 5, 1935, Vol. 75, pg. 212, Official Records of Starr County
Unknown Heirs of Josepha Quintana de Soto	Partition Decree, Recorded 5 February 1935, Vol. 75, pg. 212, Official Records of Starr County
Castulo Antonio de la Cruz or his heirs	Warranty Deed, Document #1951-32611, Recorded February 12, 1951, Vol. 165, pg. 96, Official Records of Starr County
Ameida Salinas Starr County Tax Assessor-Collector 100 N. FM 3167, Room 201 Rio Grande Valley, Texas 75882	

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS		DEFENDANTS	
<p>(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p>		<p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p>	
<p>(c) Attorneys (<i>Firm Name, Address, and Telephone Number</i>)</p>		<p>Attorneys (<i>If Known</i>)</p>	
II. BASIS OF JURISDICTION (<i>Place an "X" in One Box Only</i>)		III. CITIZENSHIP OF PRINCIPAL PARTIES (<i>Place an "X" in One Box for Plaintiff and One Box for Defendant</i>)	
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>		<input type="checkbox"/> PTF <input type="checkbox"/> DEF Citizen of This State <input type="checkbox"/> 1 <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4 <input type="checkbox"/> 4	
<input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>		<input type="checkbox"/> PTF <input type="checkbox"/> DEF Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5	
		<input type="checkbox"/> PTF <input type="checkbox"/> DEF Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6	
IV. NATURE OF SUIT (<i>Place an "X" in One Box Only</i>)			
Click here for: Nature of Suit Code Descriptions.			
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability PERSONAL PROPERTY <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/ Disabilities - Employment <input type="checkbox"/> 446 Amer. w/ Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act
			SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions
Click here for: Nature of Suit Code Descriptions.			
V. ORIGIN (<i>Place an "X" in One Box Only</i>)			
<input type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court		<input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from Another District (<i>specify</i>) <input type="checkbox"/> 6 Multidistrict Litigation - Transfer <input type="checkbox"/> 8 Multidistrict Litigation - Direct File	
<p>Cite the U.S. Civil Statute under which you are filing (<i>Do not cite jurisdictional statutes unless diversity</i>):</p>			
VI. CAUSE OF ACTION Brief description of cause:			
VII. REQUESTED IN COMPLAINT: <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.		DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No	
VIII. RELATED CASE(S) IF ANY <i>(See instructions):</i>		JUDGE _____ DOCKET NUMBER _____	
DATE		SIGNATURE OF ATTORNEY OF RECORD	
FOR OFFICE USE ONLY			
RECEIPT #		AMOUNT	
		APPLYING IFP	
		JUDGE	
		MAG. JUDGE	